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REPORT
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NATURALIZATION AMENDMENTS OF 1989

JULY 27, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BROOKS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1630]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1630) to amend title III of the Immigration and Nationality Act to provide for administrative naturalization, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Naturalization Amendments of 1989".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

SEC. 2. ADMINISTRATIVE NATURALIZATION.

(a) NATURALIZATION AUTHORITY.—Section 310 (8 U.S.C. 1421) is amended to read as follows:

"NATURALIZATION AUTHORITY

"SEC. 310. (a) AUTHORITY IN ATTORNEY GENERAL.—The sole authority to naturalize persons as citizens of the United States is conferred upon the Attorney General.

"(b) ADMINISTRATION OF OATHS.—An applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by any District Court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The ju-

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risdiction of all courts herein specified to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts.

"(c) JUDICIAL REVIEW.—A person whose application for naturalization under this title is denied, after a hearing before an immigration officer under section 336(a), may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5, United States Code. Such review shall be de novo, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

"(d) SOLE PROCEDURE.—A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title and not otherwise.".

(b) FILING OF APPLICATIONS.—Section 334(a) (8 U.S.C. 1445(a)) is amended by adding at the end the following new sentence: "In the case of an applicant subject to a requirement of continuous residence under section 316(a) or 319(a), the application for naturalization may be filed up to three months before the date the applicant would first otherwise meet such continuous residence requirement.".

(c) NOTIFICATION.—Section 335(b) (8 U.S.C. 1446(b)) is amended by adding at the end the following new sentence: "Any such employee shall, at the examination, inform the petitioner of the remedies available to the petitioner under section 336.".

SEC. 3. SUBSTITUTING 3 MONTHS RESIDENCE IN INS DISTRICT OR STATE FOR 6 MONTHS RESIDENCE IN A STATE.

Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking "and who has resided within the State in which the petitioner filed the petition for at least six months" and inserting "and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months".

SEC. 4. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO SECTION 310 REVISION.—(1) The item in the table of contents relating to section 310 is amended to read as follows:

"Sec. 310. Naturalization authority.".

(2) Section 101(a)(36) (8 U.S.C. 1101(a)(36)) is amended by striking "(except as used in section 310(a) of title III)".

(b) CONFORMING AMENDMENTS TO CHANGE IN RESIDENCE REQUIREMENT.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (a), by striking "has resided within the State in which he filed his petition for at least six months" and inserting "has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months",

(B) in subsections (b) and (d), by striking "within the jurisdiction of the naturalization court" and inserting "in a State or a district of the Service in the United States", and

(C) in subsection (c), is amended by striking "within the jurisdiction of the court" and inserting "district of the Service in the United States".

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking "within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States".

(3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended by inserting "or district of the Service in the United States" after "State".

(4) Section 328 (8 U.S.C. 1439) is amended—

(A) in subsection (a)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by striking "for at least six months" and inserting "for at least three months";

(B) in subsection (b)(1), by striking "within the jurisdiction of the court" and inserting "within a State or district of the Service in the United States"; and

(C) in subsection (c), by inserting "or district of the Service in the United States" after "State".

(5) Section 329(b) (8 U.S.C. 1440(b)) is amended—

(A) in paragraph (2)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by inserting "and" at the end of paragraph (2);

(B) by striking paragraph (3), and

(C) by redesignating paragraph (4) as parag
raph (3).

(c) SUBSTITUTION OF APPLICATION FOR NATURALI
ZATION FOR PETITION FOR NATURAL-
IZATION.—The text of the following provisions is amended by striking "a petition", "petition", "petitions", "a petitioner", "petitioner", "petitioner's", "petitioning", and "petitioned" each place it appears and inserting "an application", "application", "applications" or "applies" (as the case may be), "an applicant", "applicant", "applicant's", "applying", and "applied", respectively:

(1) Section 313(c) (8 U.S.C. 1424(c)).
(2) Section 316 (8 U.S.C. 1427).
(3) Section 317 (8 U.S.C. 1428).
(4) Section 318 (8 U.S.C. 1429).
(5) Sections 319 (a) and (c) (8 U.S.C. 1430 (a), (c)).
(6) Section 322(a) (8 U.S.C. 1433).
(7) Section 324 (8 U.S.C. 324(a)).
(8) Section 325 (8 U.S.C. 1436).
(9) Section 326 (8 U.S.C. 1437).
(10) Section 328 (8 U.S.C. 1439).
(11) Section 329 (8 U.S.C. 1440).
(12) Section 330 (8 U.S.C. 1441).
(13) Section 331 (8 U.S.C. 1442), other than subsection (d).
(14) Section 333(a) (8 U.S.C. 1444(a)).
(15) Section 334 (8 U.S.C. 1445).
(16) Section 335 (8 U.S.C. 1446).
(17) Section 336 (8 U.S.C. 1447).
(18) Section 337 (8 U.S.C. 1448).
(19) Section 338 (8 U.S.C. 1449).
(20) Section 344 (8 U.S.C. 1455).
(21) Section 1429 of title 18, United States Code.

(d) SUBSTITUTING APPROPRIATE ADMINISTRATIVE AUTHORITY FOR NATURALIZATION COURT.—(1) Section 316 (8 U.S.C. 1427) is amended—

(A) in subsection (b), by striking "the court" each place it appears and inserting "the Attorney General",

(B) in subsection (b), by striking "date of final hearing" and inserting "date of any hearing under section 336(a)",

(C) in subsection (e), by striking "the court" and inserting "the Attorney General",

(D) in subsection (g)(1), by striking "within the jurisdiction of the court" and inserting "within a particular State or district of the Service in the United States", and

(E) in subsection (g)(2), by amending the first sentence to read as follows: "An applicant for naturalization under this section may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant.".

(2) The second sentence of section 317 (8 U.S.C. 1428) is amended by striking "and the naturalization court".

(3) The third sentence of section 318 (8 U.S.C. 1429) is amended—

(A) by striking "finally heard by a naturalization court" and inserting "considered by the Attorney General", and

(B) by striking "upon the naturalization court" and inserting "upon the Attorney General".

(4) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (b)(3), by striking "before the naturalization court" and inserting "before the Attorney General", and

(B) in subsection (c)(5), by striking "naturalization court" and inserting "Attorney General".

(5) Section 322(c)(2)(C) (8 U.S.C. 1433(c)(2)(C)) is amended by striking "naturalization court" the first place it appears and inserting "Attorney General".

(6) Section 324 (8 U.S.C. 1435) is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (1),

(ii) by striking the semicolon at the end of paragraph (2) and inserting a period, and

(iii) by striking paragraphs (3) and (4);

(B) in subsection (b), by striking "naturalization court" and inserting "Attorney General"; and

(C) in subsection (c)—

(i) in paragraph (2), by striking "the judge or clerk of a naturalization court" and inserting "the Attorney General or the judge or clerk of a court described in section 310(b)", and

(ii) in paragraph (3), by striking "or naturalization court" each place it appears and inserting "court, or the Attorney General".

(7) Section 327(a) (8 U.S.C. 1438(a)) is amended—

(A) by striking "any naturalization court specified in section 310(a) of this title" and inserting "the Attorney General or before a court described in section 310(b)"; and

(B) by inserting "and by the Attorney General to the Secretary of State" after "Department of Justice".

(8) Section 328(c) (8 U.S.C. 1439(c)) is amended by striking "the final hearing" and inserting "any hearing".

(9) Section 331(b) (8 U.S.C. 1442(b)) is amended by striking "called for a hearing" and all that follows through "to be continued" and inserting "considered or heard except after 90 days' notice to the Attorney General to be considered at the examination or hearing, and the Attorney General's objection to such consideration shall cause the application to be continued".

(10) Section 332(a) (8 U.S.C. 1443(a)) is amended—

(A) by striking "for the purpose" and all that follows through "naturalization courts" in the first sentence, and

(B) by striking the second sentence.

(11) Section 333(a) (8 U.S.C. 1444(a)) is amended by striking "clerk of the court" and inserting "Attorney General".

(12) Section 334 (8 U.S.C. 1445) is amended—

(A) by amending the heading to read as follows:

"APPLICATION FOR NATURALIZATION; DECLARATION OF INTENTION";

(B) in subsection (a)—

(i) by striking "in the office of the clerk of a naturalization court" and inserting "with the Attorney General",

(ii) by striking "upon the hearing of such petition" and inserting "under this title";

(C) in subsection (b)—

(i) by striking "(1)",

(ii) by striking "and (2)" and all that follows through "Attorney General", and

(iii) by striking "petition for";

(D) by striking subsections (c) through (e) and inserting the following:

"(c) Except as provided in subsection (d), an application for naturalization shall be filed in person in the office of the Attorney General.

"(d) A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

"(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

"(2) is of a nature which so incapacitates the person as to prevent him from personally appearing."; and

(E) by striking the first sentence of subsection (f) and inserting the following: "An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.".

(13) Section 335 (8 U.S.C. 1146) is amended—

(A) by amending the heading to read as follows:

"INVESTIGATION OF APPLICANTS; EXAMINATION OF APPLICATIONS";

(B) in subsection (a), by striking "At any time" and all that follows through "336(a)" and inserting "Before a person may be naturalized";

(C) in subsection (b)—

(i) by striking "preliminary" each place it appears,

(ii) in the first sentence, by striking "to any naturalization court" and all that follows through "to such court",

(iii) by striking "any court exercising naturalization jurisdiction as specified in section 310 of this title" in the second sentence and inserting "any District Court of the United States"; and

(iv) by striking "final hearing conducted by a naturalization court designated in section 310 of this title" in the third sentence and inserting "hearing conducted by an Immigration Office Appeals under section 336(a)";

(D) in subsection (c)—

(i) by striking "preliminary" each place it appears, and

(ii) by striking "recommendation" and inserting "determination"; and

(E) by amending subsections (d) through (f) to read as follows:

"(d) The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied.

"(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

"(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.".

(14) Section 336 (8 U.S.C. 1447) is amended—

(A) by amending the heading to read as follows:

"HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION";

(B) by amending subsections (a) and (b) to read as follows:

"(a) If, after an examination under section 335, an application for naturalization is denied, the applicant may request a hearing before an Immigration Officer.

"(b) Where there has been a failure to make a determination under section 335 before the end of the 90-day period after the date on which the examination is conducted under such section, the United States district court for the district in which the applicant resides shall upon the demand of the petitioner exercise exclusive jurisdiction over the matter.";

(C) in subsection (c), by striking "court" and inserting "Immigration Officer";

(D) in subsection (d)—

(i) by striking "clerk of the court" and all that follows through "naturalization" and inserting "the Immigration Officer shall, if the applicant requests it at the time of filing the request for the hearing",

(ii) by striking "final" each place it appears, and

(iii) by adding at the end the following: "Such subpenas may be enforced in the same manner as subpenas under section 335(b) may be enforced."; and

(E) in subsection (e)—

(i) by striking "naturalization of any person," and inserting "administration by a court of the oath of allegiance under section 337(a)", and

(ii) by striking "included in the petition for naturalization of such persons" and inserting "included in an appropriate petition to the court".

(15) Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking "in open court" and inserting "in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b)",

(ii) in the second and fourth sentences, by striking "naturalization court" each place it appears and inserting "Attorney General", and

(iii) in the fourth sentence, by striking "the court" and inserting "the Attorney General";

(B) in subsection (b)—

(i) by striking "in open court in the court in which the petition for naturalization is made" and inserting "in the same public ceremony in which the oath of allegiance is administered", and

(ii) by striking "in the court";

(C) in subsection (c)—

(i) by striking "being in open court" and inserting "attending a public ceremony", and

(ii) by striking "a judge of the court at such place as may be designated by the court" and inserting "at such place as the Attorney General may designate under section 334(e)"; and

(D) by adding at the end the following new subsection:

"(d) The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.".

(16) Section 338 (8 U.S.C. 1449) is amended—

(A) by striking "by a naturalization court",

(B) by striking "the clerk of such court" and inserting "the Attorney General",

(C) by striking "title, venue, and location of the naturalization court" and inserting "location of the District office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance",

(D) by striking "the court" and inserting "the Attorney General", and

(E) by striking "of the clerk of the naturalization court; and seal of the court" and inserting "of an immigration officer; and the seal of the Department of Justice".

(17) Section 339 (8 U.S.C. 1450) is amended to read as follows:

"FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS OF INTENTION AND APPLICATIONS FOR NATURALIZATION

"SEC. 339. (a) The clerk of each court that administers oaths of allegiance under section 337 shall—

"(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,

"(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

"(3) make and keep on file evidence for each such document issued, and

"(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

"(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, a list of all declarations of intention and applications for naturalization filed with the office.".

(18) Section 340 (8 U.S.C. 1451) is amended—

(A) in the first sentence of subsection (a), by striking "in any court specified in subsection (a) of section 310 of this title" and inserting "in any District Court of the United States",

(B) by amending the second sentence of subsection (g) to read as follows: "The clerk of the court shall transmit a copy of such order and judgment to the Attorney General.",

(C) by striking the third sentence of subsection (g), and

(D) in subsection (i), by striking "any naturalization court" and all that follows through "to take such action" and inserting the following: "the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person".

(19) Section 344 (8 U.S.C. 1455) is amended—

(A) in subsection (a)—

(i) by striking "The clerk of the court" and inserting "The Attorney General",

(ii) in paragraph (1), by striking "final", and

(iii) in paragraph (1), by striking "the naturalization court" and inserting "the Attorney General";

(B) by striking subsections (c), (d), (e), and (f);

(C) in subsection (g)—

(i) by striking ", and all fees paid over to the Attorney General by clerks of courts under the provisions of this title,", and

(ii) by striking "or by the clerks of the courts";

(D) in subsection (h)—

(i) by striking "no clerk of a United States court shall" and inserting "the Attorney General may not",

(ii) by striking ", and no clerk of any State court" and all that follows through "charged or collected", and

(iii) by striking the second sentence;

(E) in subsection (i), by striking "clerk of court", "from the clerk,", "such clerk", and "by the clerk" and inserting "Attorney General", "from the Attorney General,", "the Attorney General", and "by the Attorney General", respectively; and

(F) by redesignating subsections (g), (h), and (i) as subsections (c), (d), and (e), respectively.

(20) Section 348 (8 U.S.C. 1459) is repealed.

(e) STRIKING MISCELLANEOUS MATERIAL.—(1) Section 316 (8 U.S.C. 1427) is amended by striking subsection (f).

(2) Section 331 (8 U.S.C. 1442) is amended by striking the second sentence of subsection (d).

(f) CORRECTIONS OF TABLE OF CONTENTS.—(1) The items in the table of contents relating to sections 334 through 336 are amended to read as follows:

"Sec. 334. Application for naturalization; declaration of intention.
"Sec. 335. Investigation of applicants; examination of applications.
"Sec. 336. Hearings on denials of applications for naturalization.".

(2) The item in the table of contents relating to section 339 is amended to read as follows:

"Sec. 339. Functions and duties of clerks and records of declarations of intention and applications for naturalization.".

(3) The item in the table of contents relating to section 348 is repealed.

SEC. 5. EFFECTIVE DATES AND SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—

(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act, to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before the effective date (as defined in paragraph (3)).

(2) TREATMENT OF CURRENT COURT PETITIONS.—

(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on the effective date shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on the date of the enactment of this Act, the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this Act, but only if the petition is withdrawn not later than 3 months after the effective date.

(3) EFFECTIVE DATE DEFINED.—As used in this section, the term "effective date" means the first day of the seventh month beginning after the date of the enactment of this Act.

(4) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this Act are effective as of the date of the enactment of this Act.

(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement the amendments made by this Act on a timely basis.

(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before the effective date.

(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this Act, unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed

by this Act are, unless otherwise specifically provided, hereby continued in force and effect.

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the acquisition of United States citizenship for qualified aliens by establishing a system of administrative naturalization.

HISTORY OF LEGISLATION

On March 23, Rep. Bruce Morrison introduced H.R. 1630. The legislation is similar to legislation which passed the House unanimously in the One Hundredth Congress. On April 5 the Subcommittee on Immigration, Refugees, and International Law marked up H.R. 1630 and by a recorded vote of 6–4 ordered the bill favorably reported to the Full Committee without amendment.

COMMITTEE VOTE

H.R. 1630 was considered by the Full Committee on June 20, 1989, and by a voice vote was favorably reported with an amendment in the nature of a substitute.

NEED FOR LEGISLATION

The legislation streamlines the process towards citizenship. The avenue towards United States citizenship today is often times cumbersome and frustrating involving two branches of Government, attendant with their own backlogs of cases, administrative structure, and institutional turf problems. Fully qualified applicants must wait two years in some places to be sworn in as a U.S. citizen. This, of course, affects employment opportunities, travel plans, and conferring of immigration benefits on relatives, and most importantly, deprives these individuals of their right to vote. By vesting authority for naturalization with the Attorney General, the applicant will be relieved of onerous paperwork burdens, confusing divisions of responsibilities between the Courts and the Department of Justice, and unduly lengthy processing times to achieve their goal of acquiring U.S. citizenship.

Removal of the 200-year-old naturalization process from the Judiciary is not a step taken lightly by the Committee. The Committee notes the important role the Courts have performed in the past of welcoming citizens to the U.S. However, the increasing volume of citizenship applicants and heavy dockets of the Courts in other areas leads the Committee to consider a more streamlined process for those aspiring to citizenship. The quagmire only serves to discourage potential citizens from making application and deprives this country of a traditional source of productive and informed citizenry.

Administrative naturalization has been an evolutionary process, a culmination of various efforts by all branches of Government to design a more efficient process to welcome those seeking full participation in our democracy. Legislative measures in 1981 reduced paperwork requirements in the process on behalf of the Immigration and Naturalization Service and the Courts. Through the

budget authorization process the Congress has sought to meet the rising manpower and funding difficulties accompanying unprecedented high levels of naturalization applications. The Service has attempted to meet the challenge of increased demands through various management program changes. The Judiciary has cooperated through more hearings on cases.

Congressional action in the last five fiscal years (1984–1988) included the addition of 404 positions to address the high increase in receipts. The establishment of a user-fee account in the 100th Congress (P.L. 100–459) has also assisted in meeting the workload. These measures, along with the 1981 legislation which removed the requirement that applicants be accompanied by witnesses to attest to his character at the final hearing, have made substantial headway toward coping with increased demand.

The Immigration and Naturalization Service efforts to meet demands have been extensive. Computerization of records, establishment of monitoring systems, as well as institutions of management programs for more efficient utilization of resources, have resulted in cost savings, reduced processing time, and more effective quality control. Caseload monitoring is operational in 18 cities thus reducing clerical and other paperwork burdens. According to a GAO report, in most of those cities where computer-assisted systems were in place, time periods for processing were substantially shorter than other areas.[1]

In another major effort to grapple with the problem, management techniques in 1983 included a merger of the adjudication program with naturalization to allow non-lawyers to review petitions thus making fuller utilization of staff resources. Task Forces have also been dispatched to high impact areas. However, court backlogs in some areas of the country offset any progress made by efficiencies realized by the Immigration and Naturalization Service.

Lengthy delays in the Judiciary can also be attributed to the increased volume of applications as well as the number of other cases referred to the courts. In fact, a majority of cases pending in the naturalization area were in the courts and not in the Immigration Service. The impact on the Courts has a dual effect: it presents logistical as well as paperwork burdens. Logistical difficulties involve accommodating large numbers of applicants in limited space as well as conducting more frequent ceremonies. Then INS Commissioner Nelson, during Subcommittee hearings, stated, "I think it would be very important * * * to get some legislation that would allow administrative naturalization because frankly we do have some problems with the courts in getting cases set or getting large hearings."[2] The Judiciary has cooperated to the extent possible by scheduling more applicants and more frequent hearing schedules; however, various areas of the country continue to experience substantial delays in the Judiciary for naturalization:

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[1] U.S. Comptroller General, "Naturalized Citizenship Processing Time for Applications at INS Brooklyn, NY Office," April 1986, p. 3.

[2] "Immigration and Naturalization Service Budget for Fiscal Year 1984", Hearings, 98th Congress, 1st Session, Serial No. 9, 1983, p. 15.

	Months
U.S.D.C. Connecticut	11
U.S.D.C. Eastern Kentucky	15
U.S.D.C. Western Michigan	12
U.S.D.C. Western Oklahoma	12
U.S.D.C. Eastern Tennessee	20
U.S.D.C. Northern and Eastern Texas	9

With respect to the Court function in the n aturalization process, the Committee notes that its major role is ceremonial and there are few instances where the recommendation of INS is not granted. In fact, in FY 1988, 242,000 persons were nat uralized and only 767 statutorily denied.

In summary, every effort has been mad le by the Executive Branch, the Congress and the Judiciary to meet the increasing volume of citizenship applications and to reduce naturalization delays but little real progress has been achiev ed.

Support for various forms of administrati ve naturalization has been widespread and includes the U.S. Cathol ic Conference, Church World Service, Lutheran Immigration and Refugee Services, the National Association of Latino Elected an l Appointed Officials (NALEO), the American Immigration Lawyer s Association, as well as a recommendation from the Select Comm ission on Immigration and Refugee Policy in its Report to Congress n 1981.

The Committee believes vesting author ty in the Executive Branch will be beneficial to those applicants desirous of attaining the goal of U.S. citizenship. By allowing the a pplicant to choose the forum for the ceremony, the Committee bel ieves the applicant as well as the Government will reap benefits.

Analysis of Major Provisions of Legislation

Authority to naturaliz e

Authority for naturalization is conferred u pon the Attorney Gen- eral by allowing the applicant for naturaliza tion to commence and culminate the act of becoming a citizen o the U.S. within one Branch of Government rather than through the current two-tiered process. Under this legislation the applicant submits an application with the Immigration and Naturalization Service and shortly thereafter, upon being found statutorily eligi ble, a determination is made on the citizenship application by the A ttorney General. This one step procedure addresses the current situ ation whereby the Im- migration and Naturalization Service does v irtually all of the proc- essing, makes recommendations to the Cou rt for final disposition and yet the authority for final disposition of the case rests with the Court. The Committee notes the Courts ve ry rarely overturn an INS recommendation and in FY 1988 only 76 7 petitions were statu- torily denied by the Courts out of 242,000 na turalized. It is general- ly recognized that the role of the Courts has been traditionally cer- emonial in nature. The Committee does not believe this legislation takes away any authority which cannot be f airly and appropriately performed by the agency which has had de facto responsibility for two centuries. In essence, this section merel y codifies current prac- tice.

There are areas, however, in which the Co mmittee has some con- cerns with this delegation of power.

First, the Committee expects the Immigration and Naturalization Service to divest itself of its passive role in the naturalization process. The role of the INS has in the past, to an unfortunate degree, been identified more as an enforcement agency than service-oriented. Because of this stigma the Committee finds many statutorily eligible applicants fearful and wary of going into an Immigration and Naturalization Service to file an application for naturalization. On occasion, the citizen is met by a confrontational mode by an officer of the Service and abandons for an instant his resolve to become a citizen. One of the leading organizations following this issue has observed:

> Naturalization is an act of great personal consequence to American Immigrants, involving major reorientations in their sense of identity and offering a new beginning for many.[3]

Accordingly, the Committee emphasizes that the paramount consideration of this legislation and its implementation should be the applicants. the Committee encourages INS to expand under already existing statutory authority (section 332(b) INA) its outreach programs in the naturalization area. The Committee believes more can be done to enhance the objectives of this bill through this means. The Committee also endorses a program by which INS would notify prospective applicants within 5 years of citizenship requirements and concomitant benefits in the event they wish to pursue it.

In the private sector, the Committee believes its role is as important as that of the Immigration and Naturalization Service and anticipates their playing a wider and more positive role in channeling immigrants towards citizenship, if that is their desire. The Committee urges INS and service providers to share their expertise on behalf of this constituency. Again, INS must enthusiastically embrace the naturalization process and welcome the citizens in a manner consistent with their historic contributions to this country.

Second, there does not appear to be across the nation, any uniformity in decisions made by INS on naturalization cases. There are few grounds for denial of naturalization applications—principally, English language and knowledge of U.S. History and Government. Yet the Committee has been informed that the nature of exams for history and government vary and catch applicants (young and old) unaware as to expectations, and in many cases, the applicant is not clear as to passage of the exam or, for that fact, if he or she has met any of the other statutory requirements. Additionally, the applicant has no direction as to subsequent steps in the process. The Committee expects the Attorney General by regulation, to establish uniform guidelines on the criteria for the exam relating to English language and U.S. Government and History and as outlined above provide access to information on becoming a citizen and the prerequisites for attaining that goal.

The third area which the Committee raises for review by the Attorney General relates to complex cases which require extensive in-

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[3] "Administration of the Immigration and Nationality Laws", Hearings, 99th Congress, 2d Session, Serial No. 95, 1986, p. 279.

vestigation and may be controversial in nature, including good moral character, bars to naturalization under section 313 relating to membership in proscribed organizations and other cases. The Committee has been advised that cases in these categories sometimes are placed on the "backburner" due to indecisiveness on the part of an examiner who may not be thoroughly versed in the legal technicalities. According to a study by NALEO, difficult cases are put on a backburner because some INS employees do not want to "put their necks out to make a decision" and hope the petitioner loses interest so they can deny for lack of prosecution. The Committee directs the Attorney General to monitor processing time on all applications for naturalization so that those cases where there is unduly long "lag time" can be reviewed and lack of determination investigated.

Fourth, there have been increased numbers of cases brought to the attention of the Committee involving the disposition of applications for citizenship. Difficulties are encountered at almost every point in the process. There appear to be four mechanisms for disposition of a case; nonfile, continued, grant, and denial. At the initial interview with the Immigration and Naturalization Service, an applicant who is not fully qualified may be requested to withdraw the application, and these cases are considered to be "nonfiles". In such cases, however, often the applicant is given no documentary reason for the request for withdrawal or timeframe for possible resubmission of the application. Another manner of disposition relates to those cases where INS provides that the applicant file a petition with the Court, yet the case is not docketed immediately but instead "continued" for a variety of reasons; awaiting INS file transmission, further investigation, documents, etc. Again, it appears that the applicant is served no notice as to the status of the case and is subject to inordinate delays. The last two manners of disposition are those cases which are recommended for "grant" or "denial", and even in those cases applicants are not fully informed of the result of preliminary adjudication.

The Committee is extremely dismayed at the haphazard manner of disposing of these cases. This lack of uniformity and lack of clear resolution befuddles the applicant. It points to a process which is sorely in need of quality control. The Committee urges INS to develop a more consistent policy with respect to advising applicants of the disposition and status of their case, and close monitoring so that the policies are implemented in a clear and consistent manner in all district offices.

Additionally, the Committee directs the Attorney General to annually report information on these various categories with explicit details on reasons for "nonfiles" and "continued" cases. Information should include statutory ineligibility as to English language, U.S. Government and History exam, residence requirements, country of origin, point at which determined to be fully qualified (first, second, or third interview), returns due to insufficient information or requests for further documentation. The annual report should also include statistics in grants and denials. The Committee believes the accumulation and sharing of this information will enable policymakers and service providers an apportunity to assist INS as well as aspiring citizens in their desire to be naturalized. The Com-

mittee has been a long-term advocate for collection of relevant data to assist in its legislative function. In fact, in its authorizing role, the Committee in the 99th and 100th Congresses has required the collection of such information. This lack of data has hampered greatly the Committee as well as various community leaders in their efforts to assist in this important aspect of an immigrant's experience.

As an adjunct, files location and retrieval often hampers expeditious determination on cases. Unfortunately, in many cases archiving of files coincides with the 8 year interval at which time most applicants seek naturalization. The Committee urges INS to work towards a files system and/or better utilization of computer base so that "hard copy" files are not needed for review of an applicant other than in problematic cases.

CEREMONIAL ASPECTS

The legislation provides that the forum for performance of the ceremonial aspects for the final taking of the oath of allegiance shall be chosen by the applicant and may be either with the Attorney General or with a Federal District or State Court.

The role of the Courts has been traditionally a dignified and inspiring one for the conferring of the oath of allegiance to prospective citizens. The Committee believes, however, that the Attorney General can provide that same sense of decorum in a more expedient manner. By allowing the applicant to choose the administrative or judicial forum for the ceremony, the Committee recognizes that some persons may desire exposure to the Judiciary in a courtroom setting and others are desirous of a more expedient process and they may opt for an administrative ceremony.

The Committee notes that State or local Judges, as under existing law, may participate in the swearing-in of the applicant. In views of the high volume of cases with a wide geographic distribution, the Committee urges the INS and the Courts to cooperate in providing logistical support as well as sharing expertise in the ceremonial aspects of the naturalization process.

In order to assure that each applicant receives essentially the same ceremony, the Attorney General is directed to develop a "model plan" for naturalization ceremonies consistent with current standards of the Court. The Committee strongly believes that irrespective of which avenue the applicant pursues, he/she should be accorded the same dignity. Paramount consideration should be the conferral of the act of citizenship on behalf of the applicant, and the Committee views with very little favor political or religious use of the citizenship ceremony.

However, the acquisition of citizenship can also be an affair to share with family, friends, and the community. It is expected that INS will provide greater flexibility by "circuit-riding" into locales where the community may share in welcoming the new citizens into their midst. Involvement by the private sector and a sense of community in this occassion can only enhance the meaningful initiation into citizenship.

JUDICIAL REVIEW

The bill provides that decisions to deny citizenship may be appealed to U.S. District Court and re-evaluated *de novo*. The Committee strongly believes that although few cases for naturalization have been denied, citizenship is the most valued governmental benefit of this land and applicants should receive full recourse to the Judiciary when the request for that benefit is denied.

In order to conform H.R. 1630 to current practices which allow a "motion to calendar" where there are significant timelags in decisionmaking, the bill provides that the applicant may petition the court after 90 days of the interview on an application if a decision has not been made on the case. Upon petitioning the court, jurisdiction for decisionmaking and conducting the final oath of citizenship lie with the court. It is expected that INS will move expeditiously after full ivnestigation of the facts to calendar cases for examination and decision. Although in some circumstances the need for additional fact finding and processing time would be justified, these complex cases must come to resolution at some point, and if a decision is not rendered in a timely fashion, the Committee believes the petitioner is entitled to a decision and hearing on the case.

SECTION-BY-SECTION ANALYSIS

Section 1—Short Title—"Naturalization Amendments of 1989."

Section 2—Confers authority for naturalization on the Attorney General. Provides that the applicant may choose the forum for the swearing-in ceremony (either before the Attorney General or his designee or before a Federal District Court or State Court). Provides for judicial review of denied cases de novo in District Court. Allows application to be filed three months prior to eligibility.

Section 3—Reduces residence period in a State from six months to three months.

Section 4—Conforming Amendments:

Amends table of contents. Strikes references to six month residence in a State. Substitutes the word "application" for previously filed "petitions" in the courts. Grants Attorney General authority in lieu of the courts. Directs that hearings be held at regular intervals. Provides that in cases where the Attorney General does not make a determination or hear a case, the applicant may seek redress in District Court 90 days after the examination. Provides that the Attorney General issue regulations to ensure that the public ceremonies are in keeping with the dignity of the occasion. Grants the Attorney General authority to make determinations on naturalization applications. Strikes miscellaneous material.

Section 5—Effective Dates—Provides that the effective date is 90 days after enactment. Allows withdrawal of petitions now pending in the Courts three months after the effective date.

ADMINISTRATION POSITION

The Administration has no formal position on the bill.

OVERSIGHT STATEMENT

Pursuant to clause 2(l)(3)(A) of rule XI of the rules of the House of Representatives, the Committee states that it has exercised close oversight with regard to the naturalization provisions of the Immigration and Nationality Act. Close oversight will be exercised in the succeeding years and the Committee plans to carefully monitor the administrative and judicial processes concerning naturalization.

Clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives is inapplicable since no oversight findings and recommendations have been received from the Committee on Government Operations.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that this bill will not have an inflationary effect on prices and costs in the operation of the national economy.

ESTIMATE OF COST

Pursuant to clause 7, rule XIII of the Rules of the House of Representatives, the Committee concurs with the cost estimates set forth below by the Congressional Budget Office.

BUDGETARY INFORMATION

Clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because the instant legislation does not provide new budget authority. Pursuant to clause 2(l)(3)(C) of rule XI, the following estimate was prepared by the Congressional Budget Office and submitted to the Committee:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 23, 1989.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1630, the Naturalization Amendments of 1989, as ordered reported by the House Committee on the Judiciary, June 20, 1989.

CBO estimates that enactment of this bill could save the government up to $2 million annually; however, outlay reductions would result only if appropriations were correspondingly reduced. In future years the Immigration and Naturalization Service (INS) could reduce the fees collected for naturalization to reflect the lower cost of the program.

H.R. 1630 would amend the Immigration and Nationality Act to empower the Attorney General to issue the final determination on applications for U.S. citizenship and to administer the oath of citizenship. Under current law, the INS reviews all applications for naturalization and makes a recommendation to the U.S. District

Courts, which then make the fi[nal decision and administer the oath of citizenship. Under this bil[l, the INS would make the final decision; the applicant would ther[e have the option of being sworn in by a judge or by an official des[ignated by the Attorney General.

Impact on the Federal Budget

CBO estimates that the INS cou[ld save $500,000 to $1 million annually, and that the Judiciary cou[ld save roughly $1 million annually, which would result in outlay sa[vings if appropriations are correspondingly reduced. These savings would be the result of a simplification of the final stages of the naturalization process. The district courts perform many administ[rative functions in the current process, many of which duplicate w[ork done by the INS. H.R. 1630 would eliminate much of this dupli[cation by shifting responsibility from the courts to the Attorney G[eneral. The range of savings shown for the INS includes addition[al expenditures for the naturalization ceremony. The estimated sa[vings for the Judiciary include as assumption that one out of three applicants would choose to receive the naturalization oath from a judge.

We cannot predict whether the[se savings would lead to any future adjustment in the fees that the INS collects for processing citizenship applications. These fees, which are intended to cover the costs of the program, are set th[rough regulation and reviewed every two years; the next review is [scheduled to occur in 1991. The INS does not currently include the [expenses incurred by the courts when setting the fees.

Estimated Cost to State and Local G[overnments

State and local governments wou[ld incur some costs if this bill were enacted because applicants cou[ld choose to receive the oath of citizenship from state or local court judges. We do not expect such costs to be significant, since most ap[plicants are likely to be sworn in at federal facilities.

If you wish further details on this [estimate, we will be pleased to provide them.

Sincerely,

ROB[ERT D. REISCHAUER, *Director.*

COMMITTEE RECOM[MENDATION

After careful consideration of this [legislation, the Committee is of the opinion that this bill should b[e enacted and accordingly recommends that H.R. 1630, as amended[, do pass.

CHANGES IN EXISTING LAW MADE [BY THE BILL, AS REPORTED

In compliance with clause 3 of [r]ule XIII of the Rules of the House of Representatives, changes in [existing law made by the bill as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, n[ew matter is printed in italic, existing law in which no change is proposed is shown in roman):

IMMIGRATION AND NA[TIONALITY ACT

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TITLE I—GENERAL

DEFINITIONS

SECTION 101. (a) As used in this Act—
(1) * * *

* * * * * * *

(36) The term "State" includes [(except as used in section 310(a) of title III)] the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

* * * * * * *

TITLE III—NATIONALITY AND NATURALIZATION

* * * * * * *

CHAPTER 2—NATIONALITY THROUGH NATURALIZATION

[JURISDICTION TO NATURALIZE

[SEC. 310. (a) Exclusive jurisdiction to naturalize persons as citizens of the United States is hereby conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress in any State, District Court of the United States for the District of Columbia and for Puerto Rico, the District Court of the Virgin Islands of the United States, and the District Court of Guam; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all the courts herein speci-

fied to naturalize persons shall extend only to such persons resident within the respective jurisdiction of such courts, except as otherwise specifically provided in this title.

[(b) A person who petitions for naturalization in any State court having naturalization jurisdiction may petition within the State judicial district or State judicial circuit in which he resides, whether or not he resides within the county in which petition for naturalization is filed.

[(c) The courts herein specified, upon request of the clerks of such courts, shall be furnished from time to time by the Attorney General with such blank forms as may be required in naturalization proceedings.

[(d) A person may be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title, and not otherwise.]

NATURALIZATION AUTHORITY

SEC. 310. (a) AUTHORITY IN ATTORNEY GENERAL.—The sole authority to naturalize persons in citizens of the United States is conferred upon the Attorney General.

(b) ADMINISTRATION OF OATHS.—An applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by any District Court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts herein specifed to administer the oath of allegiance shall extend only to person resident within the respective jurisdiction of such courts.

(c) JUDICIAL REVIEW.—A person whose application for naturalization under this title is denied, after a hearing before an immigration officer under section 336(a), may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5, United States Code. Such view shall be de novo, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

(d) SOLE PROCEDURE.—A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title and not otherwise.

* * * * * * *

SEC. 313. (a) * * *

* * * * * * *

(c) The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the [petition] *application* for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within this section, notwithstanding that at the time the [petition] *application* is filed he may not be included within such classes.

* * * * * * *

REQUIREMENTS AS TO RESIDENCE, GOOD MORAL CHARACTER, ATTACHMENT TO THE PRINCIPLES OF THE CONSTITUTION, AND FAVORABLE DISPOSITION TO THE UNITED STATES

SEC. 316. (a) No person, except as otherwise provided in this title, shall be naturalized, unless such [petitioner] *applicant* (1) immediately preceding the date of filing his [petition] *application* for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his [petition] *application* has been physically present therein for periods totaling at least half of that time, [and who has resided within the State in which the petitioner filed the petition for at least six months,] *and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months,* (2) has resided continuously within the United States from the date of the [petition] *application* up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the [petition] *application* for naturalization, or during the period between the date of filing the petition and the [date of final hearing,] *date of any hearing under section 336(a),* shall break the continuity of such residence, unless the [petitioner] *applicant* shall establish to the satisfaction of the [court] *Attorney General* that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the [petition] *application* for naturalization) shall break the continuity of such residence except that in the case of a person who has been physically present and residing in the United States after being lawfully admitted for permanent residence for an uninterrupted period of at least one year and who thereafter, is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from

the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Goverment, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries of such firm or corporation, or to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the [court] *Attorney General* that his absence from the United States for such period has been for such purpose.

The spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection shall also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

* * * * * * *

(e) In determining whether the [petitioner] *applicant* has sustained the burden of establishing good moral character and the other qualifications for citizenship specified in subsection (a) of this section, [the court] *Attorney General* shall not be limited to the [petitioner's] *applicant's* conduct during the five years preceding the filing of the [petition,] *application,* but may take into consideration as a basis for such determination the [petitioner's] *applicant's* conduct and acts at any time prior to that period.

[(f) Naturalization shall not be granted to a petitioner by a naturalization court while registration proceedings or proceedings to require registration against an organization of which the petitioner is a member or affiliate are pending under section 13 or 14 of the Subversive Activities Control Act of 1950.]

(g)(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that [a petitioner] *an applicant* otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the [petitioner] *applicant* may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 313 of this Act, and no residence [within the jurisdiction of the court] *within a particular State or district of the Service in the United States* shall be required: *Provided,* That the [petitioner] *applicant* has continuously resided in the United States for at least one year prior to naturalization: *Provided further,* That the provisions of this subsection shall not apply to any alien described in subparagraphs (A) through (D) of paragraph 243(h)(2) of this Act.

(2) [A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner.] *An applicant for natu-*

ralization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods and activities.

* * * * * * *

TEMPORARY ABSENCE OF PERSONS PERFORMING RELIGIOUS DUTIES

SEC. 317. Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who (1) has been lawfully admitted to the United States for permanent residence, (2) has at any time thereafter and before filing [a petition] *an application* for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and (3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purposes of naturalization within the means of section 316(a), notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General [and the naturalization court] that his absence from the United States has been solely for the purposes of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

PREREQUISITE TO NATURALIZATION; BURDEN OF PROOF

SEC. 318. Except as otherwise provided in this title, no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this Act. The burden of proof shall be upon such person to show that he entered the United States lawfully and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential pertaining to such entry, in the custody of the Service. Notwithstanding the provisions of section 405(b), and except as provided in section 328 and 329 no person shall be naturalized against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued under the provisions of this or any other Act; and no [petitioned] *application* for naturalization shall be [finally head by a naturalization court] *considered by the Attorney General* if there is pending against the [petitioner] *applicant* a deportation proceeding pursuant to a warrant of arrest issued under the provisions of this or

any other Act: *Provided,* That the findings of the Attorney General in terminating deportation proceedings or in suspending the deportation of an alien pursuant to the provisions of this Act, shall not be deemed binding in any way upon the [naturalization court] *Attorney General* with respect to the question of whether such person has established his eligibility for naturalization as required by this title.

MARRIED PERSONS AND EMPLOYEES OF CERTAIN NONPROFIT ORGANIZATIONS

SEC. 319. (a) Any person whose spouse is a citizen of the United States may be naturalized upon compliance with all the requirements of this title except the provisions of paragraph (1) of section 316(a) if such person immediately preceding the date of filing his [petition] *application* for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least three years, and during the three years immediately preceding the date of filing his [petition] *application)* has been living in marital union with the citizen spouse, who has been a United States citizen during all of such period, and has been physically present in the United States for periods totaling at least half of that time and [has resided within the State in which he filed his petition for at least six months] *has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months.*

(b) Any person, (1) whose spouse is (A) a citizen of the United States, (B) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such employment, and (2) who is in the United States at the time of naturalization, and (3) who declares before the [naturalization court] *Attorney General* in good faith an intention to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse, may be naturalized upon compliance with all the requirements of the naturalization laws, except that no prior residence or specified period of physical presence within the United States or [within the jurisdiction of the naturalization court] *in a State or a district of the Service in the United States* or proof thereof shall be required.

(c) Any person who (1) is employed by a bona fide United States incorporated nonprofit organization which is principally engaged in conducting abroad through communications media the dissemination of information which significantly promotes United States interests abroad and which is recognized as such by the Attorney

General, and (2) has been so employed continuously for a period of not less than five years after a lawful admission for permanent residence, and (3) who files his [petition] *application* for naturalization while so employed or within six months following the termination thereof, and (4) who is in the United States at the time of naturalization, and (5) who declares before the [naturalization court] *Attorney General* in good faith an intention to take up residence within the United States immediately upon termination of such employment, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified period of physical presence within the United States or any State or [within the jurisdiction of the court] *district of the Service in the United States,* or proof thereof, shall be required.

(d) Any person who is the surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in an active duty status in the Armed Forces of the United States and who was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States, or [within the jurisdiction of the naturalization court] *in a State or a district of the Service in the United States* shall be required.

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CHILD BORN OUTSIDE OF UNITED STATES; NATURALIZATION ON PETITION OF CITIZEN PARENT; REQUIREMENTS AND EXEMPTIONS

SEC. 322. (a) A child born outside of the United States, one or both of whose parents is at the time of [petitioning] *applying* for the naturalization of the child, a citizen of the United States, either by birth or naturalization, may be naturalized if unmarried and under the age of eighteen years and not otherwise disqualified from becoming a citizen by reason of section 313, 314, 315, or 318 of this Act, and if residing permanently in the United States, with the citizen parent, pursuant to a lawful admission for permanent residence, on the [petition] *application* of such citizen parent, upon compliance with all the provisions of this title, except that no particular period of residence or physical presence in the United States shall be required. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States, in the custody of the adoptive parent or parents, pursuant to a lawful admission for permanent residence.

(c) In the case of an adopted child (1) who is in the United States at the time of naturalization, and (2) one of whose adoptive parents (A) petitions for naturalization of the child under this section, (B) meets the criteria of clauses (A), (B), and (C) of section 319(b)(1), and (C) declares before the [naturalization court] *Attorney General* in good faith an intention to take up residence within the United States immediately upon the termination of the employment described in section 319(b)(1)(B), no specified period of resi-

dence [within the jurisdiction of the naturalization court] *within a State or a district of the Service in the United States* or proof thereof shall be required.

FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP

SEC. 324. (a) Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person's spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this title, except—

(1) no period of residence or specified period of physical presence within the United States or within the State *or district of the Service in the United States* where the [petition] *application* is filed shall be required; *and*

(2) the [petition] *application* need not set forth that it is the intention of the petitioned to reside permanently within the United States[;].

[(3) the petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner;

[(4) the petition may be heard at any time after filing if there is attached to the petition at the time of filing a certificate from a naturalization examiner stating that the petitioner has appeared before such examiner for examination.]

Such person, or any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided,* That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(b) No person who is otherwise eligible for naturalization in accordance with the provisions of subsection (a) of this section shall be naturalized unless such person shall establish to the satisfaction of the [naturalization court] *Attorney General* that she has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States for a period of not less than five years immediately preceding the date of filing [a petition] *an application* for naturalization and up to the time of admission to citizenship, and, unless she has resided continuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her [petition] *application* for naturalization.

(c)(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citi-

zenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship, (B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 337 of this title, be a citizen of the United States have the status of a citizen of the United States by birth, without filing [a petition] *an application* for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313: *Provided,* That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(b) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before [the judge or clerk of a naturalization court] *Attorney General or the judge or clerk of a court described in section 310(b).*

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, legation, consulate, or [naturalization court] *court, or the Attorney General,* and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, or [naturalization court] *court, or the Attorney General,* shall be delivered to such woman at a cost not exceeding $5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States.

NATIONALS BUT NOT CITIZENS OF THE UNITED STATES; RESIDENCE WITHIN OUTLYING POSSESSIONS

SEC. 325. A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified, may, if he becomes a resident of any State, be naturalized upon compliance with the applicable requirements of this title, except that in [petition] *applications* for naturalization filed under the provisions of this section residence and physical presence within the United States within the meaning of this title shall include residence and physical presence within any of the outlying possessions of the United States.

RESIDENT PHILIPPINE CITIZENS EXCEPTED FROM CERTAIN REQUIREMENTS

SEC. 326. Any person who (1) was a citizen of the Commonwealth of the Philippines on July 2, 1946, (2) entered the United States prior to May 1, 1934, and (3) has, since such entry, resided continuously in the United States shall be regarded as having been lawfully admitted to the United States for permanent residence for the purpose of [petitioning] *applying* for naturalization under this title.

FORMER UNITED STATES CITIZENS LOSING CITIZENSHIP BY ENTERING THE ARMED FORCES OF FOREIGN COUNTRIES DURING WORLD WAR II

SEC. 327. (a) Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country at war with a country with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, or taking an oath or obligation for the purpose of entering such forces, may, upon compliance with all the provisions of title III, of this Act, except section 316(a), and except as otherwise provided in subsection (b), be naturalized by taking before [any naturalization court specified in section 310(a) of this title] *the Attorney General or before a court described in section 310(b)* the oath required by section 337 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice *and by the Attorney General to the Secretary of State.*

* * * * * * *

NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES

SEC. 328. (a) A person who has served honorably at any time in the Armed Forces of the United States for a period or periods aggregating three years, and who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's [petition] *application,* in the United States for at least five years, and in the State *or district of the Service in the United States* in which the petition for naturalization is filed for at least [six] *three* months, and without having been physically present in the United States for any specified period, if such [petition] *application* is filed while the [petitioner] *applicant* is still in the service or within six months after the termination of such service.

(b) A person filing [a petition] *an application* under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

(1) no residence [within the jurisdiction of the court] *within a State or district of the Service in the United States* shall be required;

(2) notwithstanding section 318 insofar as it relates to deportability, such [petitioner] *applicant* may be naturalized immediately if the [petitioner] *applicant* be then actually in the Armed Forces of the United States, and if prior to the filing of the [petition] *application,* the [petitioner] *applicant* shall have appeared before and been examined by a representative of the Service;

(3) the [petitioner] *applicant,* shall furnish to the Attorney General, prior to the final hearing upon his [petition] *application,* a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was

honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable. The certificate or certificates herein provided for shall be conclusive evidence of such service and discharge.

(c) In the case such [petitioner's] *applicant's* service was not continuous, the [petitioner's] *applicant's* residence in the United States and State *or district of the Service in the United States*, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing such [petition] *application* between the periods of [petitioner's] *applicant's* service in the Armed Forces, shall be alleged in the [petition] *application* filed under the provisions of subsection (a) of this section, and proved at [the final hearing] *any hearing* thereon. Such allegation and proof shall also be made as to any period between the termination of [petitioner's] *applicant's* service and the filing of the [petition] *application* for naturalization.

(d) The [petitioner] *applicant* shall comply with the requirements of section 316(a) of this title, if the termination of such service has been more than six months preceding the date of filing the [petition] *application* for naturalization, except that such service within five years immediately preceding the date of filing such [petition] *application* shall be considered as residence and physical presence within the United States.

* * * * * * *

NATURALIZATION THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

SEC. 329. (a) Any person who, while an alien or a noncitizen national of the United States, has served honorably in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment or induction such person shall have been in the United States, the Canal Zone, America Samoa, or Swains Island, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall

determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided, however,* That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section. No period of service in the Armed Forces shall be made the basis of [a petition] *an application* for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

(b) A person filing [a petition] *an application* under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

(1) he may be naturalized regardless of age, and notwithstanding the provisions of section 318 as they relate to deportability and the provisions of section 331;

(2) no period of residence or specified period of physical presence within the United States or any State *or district of the Service in the United States* shall be required; *and*

[(3) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner; and]

[(4)] *(3)* service in the military, air, or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the [petitioner] *applicant* served or is serving, which shall state whether the [petitioner] *applicant* served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950 and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions.

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CONSTRUCTIVE RESIDENCE THROUGH SERVICE ON CERTAIN UNITED STATES VESSELS

SEC. 330. Any periods of time during all of which a person who was previously lawfully admitted for permanent residence has served honorably or with good conduct, in any capacity other than as a member of the Armed Forces of the United States, (A) on board a vessel operated by the United States, or an agency thereof, the full legal and equitable title to which is in the United States; or (B) on board a vessel whose home port is in the United States, and (i) which is registered under the laws of the United States, or (ii) the full legal and equitable title to which is in a citizen of the

United States, or a corporation organized under the laws of any of the several States of the United States, shall be deemed residence and physical presence within the United States within the meaning of section 316(a) of this title, if such service occurred within five years immediately preceding the date such person shall file [a petition] *an application* for naturalization. Service on vessels described in clause (A) of this subsection shall be proved by duly authenticated copies of the records of the executive departments or agency having custody of records of such service. Service on vessels described in clause (B) of this subsection may be proved by certificates from the masters of such vessels.

ALIEN ENEMIES; NATURALIZATION UNDER SPECIFIED CONDITIONS AND PROCEDURE

SEC. 331. (a) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war may, after his loyalty has been fully established upon investigation by the Attorney General, be naturalized as a citizen of the United States if such alien's [petition] *application* for naturalization shall be pending at the beginning of the state of war and the [petitioner] *applicant* is otherwise entitled to admission to citizenship.

(b) An alien embraced within this section shall not have his [petition] *application* for naturalization [called for a hearing, or heard, except after ninety days' notice given by the clerk of the court to the Attorney General to be represented at the hearing, and the Attorney General's objection to such final hearing shall cause the petition to be continued] *considered or heard except after 90 days' notice to the Attorney General to be considered at the examination or hearing, and the Attorney General's objection to such consideration shall cause the application to be continued* from time to time for so long as the Attorney General may require.

(c) The Attorney General may, in his discretion, upon investigation fully establishing the loyalty of any alien enemy who did not have [a petition] *an application* for naturalization pending at the beginning of the state of war, except such alien enemy from the classification of alien enemy for the purposes of this title, and thereupon such alien shall have the privilege of filing [a petition] *an application* for naturalization.

(d) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall cease to be an alien enemy within the meaning of this section upon the determination by proclamation of the President, or by concurrent resolution of the Congress, that hostilities between the United States and such country, state, or sovereignty have ended. [Notwithstanding the provisions of section 405(b), this subsection shall also apply to the case of any such alien whose petition for naturalization was filed prior to the effective date of this Act and which is still pending on that date.]

(e) Nothing contained herein shall be taken or construed to interfere with or prevent the apprehension and removal, consistent with law, of any alien enemy at any time prior to the actual naturalization of such alien.

PROCEDURAL AND ADMINISTRATIVE P ROVISIONS; EXECUTIVE FUNCTIONS

SEC. 332. (a) The Attorney Gen eral shall make such rules and regulations as may be necessary t carry into effect the provisions of this chapter and is authorized t prescribe the scope and nature of the examination of petitioners f or naturalization as to their admissibility to citizenship [for the purpose of making appropriate recommendation to the naturalizat ion courts. Such examination, in the discretion of the Attorney Ge eral, and under such rules and regulations as may be prescribed b y him, may be conducted before or after the applicant has filed h is petition for naturalization.]. Such examination shall be limited to inquiry concerning the appli cant's residence, physical presen ce in the United States, good moral character, understanding o and attachment to the funda mental principles of the Constitut ion of the United States, ability to read, write, and speak Engli sh, and other qualifications to become a naturalized citizen as re quired by law, and shall be uni form throughout the United States

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PHOTOG RAPHS

SEC. 333. (a) Three identical phot ographs of the applicant shall be signed by and furnished by each [petitioner] *applicant* for natu ralization or citizenship. One of s ch photographs shall be affixed by the [clerk of the court] *Attorn ey General* to the original certifi cate of naturalization issued to th e naturalized citizen and one to the duplicate certificate of natural ization required to be forwarded to the Service.

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[PETITION] *APPLICATION* NATU RALIZATION; DECLARATION OF INTEN TION

SEC. 334. (a) An applicant for n aturalization shall make and file [in the office of the clerk of a na turalization court] *with the At torney General* in duplicate, a swor n [petition] *application* in writ ing, signed by the applicant in th e applicant's own handwriting, if physically able to write, which [p etition] *application* shall be on a form prescribed by the Attorney General and shall include aver ments of all facts which in the opinion of the Attorney General may be material to the applicant s naturalization, and required to be proved [upon the hearing of su ch petition.] *under this title. In the case of an applicant subject to a requirement of continous resi dence under section 316(a) or 319(a), the application for naturaliza tion may be filed up to 3 month s before the date the applicant would first otherwise meet such c ontinuous residence requirement.*

(b) No person shall file a valid [petition] *application* for natu ralization unless [(1)] he shall h ave attained the age of eighteen years [and (2) he shall have firs t filed an application therefor at an office of the Service in the for m and manner prescribed by the Attorney General]. An applicati on for [petition for] naturaliza tion by an alien shall contain an averment of lawful admission for permanent residence.

[(c) Petitions for naturalization may be made and filed during the term time or vacation of the naturalization court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court.

[(d) If the applicant for naturalization is prevented by sickness or other disability from presenting himself in the office of the clerk to make the petition required by subsection (a) such applicant may make such petition at such other place as may be designated by the clerk of court or by such clerk's authorized deputy.

[(e) Before a petition for naturalization may be made outside of the office of the clerk of the court, pursuant to subsection (d) above, or before a final hearing on a petition may be held or the oath of allegiance administered outside of open court, pursuant to sections 336(a) and 337(c) respectively of this title, the court must satisfy itself that the illness or other disability is sufficiently serious to prevent appearance in the office of the clerk of court and is of a permanent nature, or of a nature which so incapacitates the person as to prevent him from personally appearing in the office of the clerk of court or in court as otherwise required by law.]

(c) Except as provided in subsection (d), an application for naturalization shall be filed in person in the office of the Attorney General.

(d) A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.

(f) [Any alien over eighteen years of age who is residing in the United States pursuant to a lawful admission for permanent residence may, upon an application prescribed, filed with, and approved by the Service, make and file in duplicate in the office of the clerk of court, regardless of the alien's place of residence in the United States, a signed declaration of intention to become a citizen of the United States, in such form as the Attorney General shall prescribe.] *An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.* Nothing in this subsection shall be construed as requiring any such alien to make and file a declaration of intention as a condition precedent to filing [a petition] *an application* for naturalization nor shall any such declaration of intention be regarded as conferring or having conferred upon any such alien United States citizenship or nationality or the right to United States citizenship or nationality, nor shall such declaration be regarded as evidence of such alien's lawful admission for permanent residence in any proceeding, action, or matter arising under this or any other Act.

[INVESTIGATION OF PETITIONERS; PRELIMINARY EXAMINATIONS ON PETITIONS] *INVESTIGATION OF APPLICANTS; EXAMINATION OF APPLICATIONS*

SEC. 335. (a) [At any time prior to the holding of the final hearing on a petition for naturalization provided for by section 336(a)] *Before a person may be naturalized,* an employee of the Service, or of the United States designated by the Attorney General, shall conduct a personal investigation of the person [petitioning] *applying* for naturalization in the vicinity or vicinities in which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or has engaged in business or work for at least five years immediately preceding the filing of his [petition] *application* for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such cases or classes of cases as may be designated by him.

(b) The Attorney General shall designate employees of the Service to conduct [preliminary] examinations upon [petitions] *applications* for naturalization [to any naturalization court and to make recommendations thereon to such court]. For such purposes any such employee so designated is hereby authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any [petitioner] *applicant* for naturalization, to administer oaths, including the oath of the [petitioner] *applicant* for naturalization, and to require by subpena the attendance and testimony of witnesses, including [petitioner] *applicant,* before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of [any court exercising naturalization jurisdiction as specified in section 310 of this title] *any District Court of the United States;* and any such court may, in the event of neglect or refusal to respond to a subpena issued by any such employee so designated or refusal to testify before such employee so designated issue an order requiring such person to appear before such employee so designated, produce relevant books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The record of the [preliminary] examination authorized by this subsection shall be admissible as evidence in any [final hearing conducted by a naturalization court designated in section 310 of this title.] *hearing conducted by an Immigration Office Appeals under section 336(a). Any such employee shall, at the examination, inform the petitioner of the remedies available to the petitioner under section 336.*

(c) The record of the [preliminary] examination upon any [petition] *application* for naturalization may, in the discretion of the Attorney General, be transmitted to the Attorney General and the [recommendation] *determination* with respect thereto of the employee designated to conduct such [preliminary] examination shall when made also be transmitted to the Attorney General.

[(d) The recommendation of the employee designated to conduct any such preliminary examination shall be submitted to the court at the hearing upon the petition and shall include a recommendation that the petition be granted, or denied, or continued, with rea-

sons therefor. In any case in which the recommendation of the Attorney General does not agree with that of the employee designated to conduct such preliminary examination, the recommendations of both such employee and the Attorney General shall be submitted to the court at the hearing upon the petition, and the officer of the Service in attendance at such hearing shall, at the request of the court, present both the views of such employee and those of the Attorney General with respect to such petition to the court. The recommendations of such employee and of the Attorney General shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the recommendations, and signed by such employee or the Attorney General, as the case may be. The judge to whom such recommendations are submitted shall, if he approves such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of each such list shall thereafter be filed permanently of record in such court and the duplicate of each such list shall be sent by the clerk of such court to the Attorney General.

[(e) After the petition for naturalization has been filed in the office of the clerk of court, the petitioner shall not be permitted to withdraw his petition, except with the consent of the Attorney General. In cases where the Attorney General does not consent to withdrawal of the petition, the court shall determine the petition on its merits and enter a final order accordingly. In cases where the petitioner fails to prosecute his petition, the petition shall be decided upon its merits unless the Attorney General moves that the petition be dismissed for lack of prosecution.

[(f)(1) A petitioner for naturalization who removes from the jurisdiction of the court in which his petition for naturalization is pending may, at any time thereafter, make application to the court for transfer of the petition to a naturalization court exercising jurisdiction over the petitioner's place of residence, or to any other naturalization court if the petition was not required to be filed in a naturalization court exercising jurisdiction over the petitioner's place of residence: *Provided,* That such transfer shall not be made without the consent of the Attorney General, and of the court to which the petition is transferred.

[(2) Where transfer of the petition is authorized the clerk of court in which the petition was filed shall forward a certified copy of the petition and the original record in the case to the clerk of court to which the petition is transferred, and proceedings on the petition shall thereafter continue as though the petition had originally been filed in the court to which transferred.]

(d) The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied.

(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases

where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.

[FINAL HEARING IN OPEN COURT UPON PETITIONS FOR NATURALIZATION; FINAL ORDER UNDER THE HAND OF THE COURT ENTERED UPON RECORD; EXAMINATION OF PETITIONER BEFORE THE COURT] *HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION*

SEC. 336. [(a) Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the petitioner, except as provided in subsection (b) of this section, shall be examined under oath before the court and in the presence of the court. If the petitioner is prevented by sickness or other disability from being in open court for the final hearing upon a petition for naturalization, such final hearing may be had before a judge or judges of the court at such place as may be designated by the court.

[(b) The requirement of subsection (a) of this section for the examination of the petitioner under oath before the court and in the presence of the court shall not apply in any case where an employee designated under section 335(b) has conducted the preliminary examination authorized by subsection (b) of section 335; except, that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner under oath before the court and in the presence of the court.]

(a) If, after an examination under section 335, an applicant for naturalization is denied, the applicant may request a hearing before an Immigration officer.

(b) Where there has been a failure to make a determination under section 335 before the end of the 90-day period after the date on which the examination is conducted under such section, the United States district court for the district in which the applicant resides shall upon the demand of the petitioner exercise exclusive jurisdiction over the matter.

(c) The Attorney General shall have the right to appear before any [court] *immigration officer* in any naturalization proceedings for the purpose of cross-examining the [petitioner] *applicant* and the witnesses produced in support of the [petition] *application* concerning any matter touching or in any way affecting the [petitioner's] *applicant's* right to admission to citizenship, and shall have the right to call witnesses, including the [petitioner]

applicant, produce evidence, and be heard in opposition to, or in favor of, the granting of any [petition] *application* in naturalization proceedings.

(d) The [clerk of the court shall, if the petitioner requests it at the time of filing the petition for naturalization] *immigration officer shall, if the applicant requests it at the time of filing the request for the hearing,* issue a subpena for the witnesses named by such [petitioner] *applicant* to appear upon the day set for the [final] hearing, but in case such witnesses cannot be produced upon the [final] hearing other witnesses may be summoned upon notice to the Attorney General, in such manner and at such time as the Attorney General may by regulation prescribe. *Such subpenas may be enforced in the same manner as subpenas under section 335(b) may be enforced.*

(e) It shall be lawful at the time and as a part of the [naturalization of any person,] *administration by a court of the oath of allegiance under section 337(a)* for the court, in its discretion, upon the bona fide prayer of the [petitioner included in the petition for naturalization of such persons] *applicant included in an appropriate petition to the court,* to make a decree changing the name of said person, and the certificate of naturalization shall be issued in accordance therewith.

OATH OF RENUNCIATION AND ALLEGIANCE

SEC. 337. (a) A person who has [petitioned] *applied* for naturalization shall, in order to be and before being admitted to citizenship, take [in open court] *in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b)* an oath (1) to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the [petitioner] *applicant* was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear the true faith and allegiance to the same; and (5)(A) to bear arms on behalf of the United States when required by the law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civilian direction when required by law. Any such person shall be required to take an oath containing the substance of clauses (1) through (5) of the preceding sentence, except that a person who shows by clear and convincing evidence to the satisfaction of the [naturalization court] *Attorney General* that he is opposed to the bearing of arms in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1) through (4) and clauses (5)(B) and (5)(C), and a person who shows by clear and convincing evidence to the satisfaction of the [naturalization court] *Attorney General* that he is opposed to any type of service in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1) through (4) and clauses and (5)(C). The term "religious training and belief" as used in this section

shall mean an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. In the case of the naturalization of a child under the provisions of section 322 of this title the [naturalization court] *Attorney General* may waive the taking of the oath if in the opinion of [the court] *the Attorney General* the child is unable to understand its meaning.

(b) In case the person [petitioning] *applying* for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the [petitioner] *applicant* shall in addition to complying with the requirements of subsection (a) of this section, make under oath [in open court in the court in which the petition for naturalization is made] *in the same public ceremony in which the oath of allegiance is administered,* an express renunciation of such title or order of nobility, and such renunciation shall be recorded [in the court] as a part of such proceedings.

(c) If the [petitioner] *applicant* is prevented by sickness or other disability from [being in open court] *attending a public ceremony,* the oath required to be taken by subsection (a) of this section may be taken before [a judge of the court at such place as may be designated by the court] *at such place as the Attorney General may designate under section 334(e).*

(d) The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.

CERTIFICATE OF NATURALIZATION; CONTENTS

SEC. 338. A person admitted to citizenship [by a naturalization court] in conformity with the provisions of this title shall be entitled upon such admission to receive from the [clerk of such court] *Attorney General* a certificate of naturalization, which shall contain substantially the following information: Number of [petition] *application* for naturalization; number of certificate of naturalization; date of naturalization; name, signature, place of residence, autographed photograph, and personal description of the naturalized person, including age, sex, marital status, and country of former nationality; [title, venue and location of the naturalization court] *location of the District office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance;* statement that [the court] *the Attorney General* having found that the [petitioner] *applicant* intends to reside permanently in the United States, except in cases falling within the provisions of section 324(a) of this title, had complied in all respects with all of the applicable provisions of the naturalization laws of the United States, and was entitled to be admitted a citizen of the United States of America, thereupon ordered that the [petitioner] *applicant* be admitted as a citizen of the United States of America; attestation [of the clerk of the naturalization court; and seal of the court] *of an immigration officer; and the seal of the Department of Justice.*

[FUNCTIONS AND DUTIES OF CLE RKS

[SEC. 339. (a) It shall be the duty of the cler k of each and every naturalization court to forward to the Attorney General a duplicate of each petition for naturalization within thirty days after the close of the month in which such petition was filed, and to forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

[(b) It shall be the duty of the clerk of each and every naturalization court to issue to any person admitted by such a court to citizenship a certificate of naturalization and to forward to the Attorney General within thirty days after the close of the month in which such certificate was issued, a duplicate thereof, and to make and keep on file in the clerk's office a stub for each certificate so issued, whereon shall be entered a memorandum of all the essential facts set forth in such certificate, and to forward a duplicate of each such stub to the Attorney General within thirty days after the close of the month in which such certificate was issued.

[(c) It shall be the duty of the clerk of each and every naturalization court to report to the Attorney General, within thirty days after the close of the month in which the final hearing and decision of the court was had, the name and number of the petition of each and every person who shall be denied naturalization together with the cause of such denial.

[(d) Clerks of courts shall be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General, and shall account to the Attorney General for them whenever required to do so. No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.

[(e) It shall be the duty of the clerk of each and every naturalization court to cause to be filed in chronological order in separate volumes, indexed, consecutively numbered, and made a part of the records of such court, all declarations of intention and petitions for naturalization.]

FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS OF INTENTION AND APPLICATIONS FOR NATURALIZATION

SEC. 339. (a) The clerk of each court that administers oaths of allegiance under section 337 shall—

(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,

(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

(3) make and keep on file evidence for each such document issued, and

(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the

court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office.

REVOCATION OF NATURALIZATION

SEC. 340. (a) It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings [in any court specified in subsection (a) of section 310 of this title] *in any District Court of the United States* in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: *Provided,* That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such person has been convicted for contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had his residence.

* * * * * * *

(g) Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Attorney General. [In case such certificate was not originally issued by the court making such order, it shall direct the clerk of court in which the order is revoked and set aside to transmit a copy of such order and judgment to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Attorney General of the entry of such order and of such cancellation.] *The clerk of the court shall transmit a copy of such order and judgment to the Attorney General.* A person holding a certificate of naturalization or

citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Attorney General, surrender the same to the Attorney General.

* * * * * * *

(i) Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of [any naturalization court, by or in which a person has been naturalized, to correct, reopen, alter, modify, or vacate its judgment of decree naturalizing such person, during the term of such court or within the time prescribed by the rules of procedure of statutes governing the jurisdication of the court to take such action] *the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person.*

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FISCAL PROVISIONS

SEC. 344. (a) The [clerk of court] *Attorney General* shall charge, collect, and account for fees prescribed by the Attorney General pursuant to section 9701 of title 31, United States Code for the following:

(1) Making, filing, and docketing [a petition] *an application* for naturalization, including the [final] hearing on such [petition] *application* if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by the [naturalization court] *Attorney General.*

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[(c) The clerk of any naturalization court specified in subsection (a) of section 310 (except the courts specified in subsection (d) of this section) shall account for and pay over to the Attorney General one-half of all fees up to the sum of $40,000, and all fees in excess of $40,000, collected by any such clerk in naturalization proceedings in any fiscal year.

[(d) The clerk of any United States district court (except in the District Court of the Virgin Islands of the United States and in the District Court of Guam) shall account for and pay over to the Attorney General all fees collected by any such clerk in naturalization proceedings: *Providing, however,* That the clerk of the District Court of the Virgin Islands of the United States and of the District Court of Guam shall report but shall not be required to pay over to the Attorney General the fees collected by any such clerk in naturalization proceedings.

[(e) The accounting required by subsections (c) and (d) of this section shall be made and the fees paid over to the Attorney General by such respective clerks in their quarterly accounts which they are hereby required to render to the Attorney General within thirty days from the close of each quarter of each and every fiscal year, in accordance with regulations prescribed by the Attorney General.

[(f) The clerks of the various naturalization courts shall pay all additional clerical force that may be required in performing the duties imposed by this title upon clerks of courts from fees retained

under the provisions of this section by such clerks in naturalization proceedings.]

[(g)] *(c)* All fees collected by the Attorney General[, and all fees paid over to the Attorney General by clerks of courts under the provisions of this title,] shall be deposited by the Attorney General in the Treasury of the United States except that all fees collected by the Attorney General, on or after October 1, 1988, under the provisions of this subchapter, shall be deposited in the "Immigration Examinations Fee Account" in the Treasury of the United States established pursuant to the provisions of sections 286 (m), (n), (o), and (p): *Provided, however*, That all fees received by the Attorney General [or by the clerks of the courts] from applicants residing in the Virgin Islands of the United States, and in Guam, under this title, shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam, respectively.

[(h)] *(d)* During the time when the United States is at war [no clerk of a United States court shall] *the Attorney General may not* charge or collect a naturalization fee from an alien in the military, air, or naval service of the United States for filing a petition for naturalization or issuing a certificate of naturalization upon admission to citizenship[, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this subsection shall be made to Attorney General as in the case of other reports of clerks of courts by this title].

[(i)] *(e)* In addition to the other fees required by this title, the [petitioner] *applicant* for naturalization shall, upon the filing of [a petition] *an application* for naturalization, deposit with and pay to the [clerk of courts] *Attorney General* a sum of money sufficient to cover the expenses of subpenaing and paying the legal fees of any witnesses for whom such [petitioner] *applicant* may request a subpena, and upon the final discharge of such witnesses, they shall receive, if they demand the same [from the clerk] *from the Attorney General,* the customery and usual witness fees from the moneys which the [petitioner] *applicant* shall have paid to [such clerk] *the Attorney General* for such purpose, and the residue, if any, shall be returned [by the clerk] *by the Attorney General* to the [petitioner] *applicant.*

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[ADMISSIBILITY IN EVIDENCE OF TESTIMONY AS TO STATEMENTS VOLUNTARILY MADE TO OFFICERS OR EMPLOYEES IN THE COURSE OF THEIR OFFICIAL DUTIES

[SEC. 348. (a) In case any clerk of court shall refuse or neglect to comply with any of the provisions of section 339 (a), (b), or (c), such clerk of court shall forfeit and pay to the United States the sume of $25 in each and every case in which such violation or omission occurs and the amount of such forfeiture may be recovered by the United States in a civil action against such clerk.

[(b) If a clerk of court shall fail to return to the Service or properly account for any certificate of naturalization furnished by the

Service as provided in subsection (d) of section 339, such clerk of court shall be liable to the United States in the sum of $50, to be recovered in a civil action, for each and every such certificate not properly accounted for or returned.]

SECTION 1429 OF TITLE 18, UNITED STATES CODE

§ 1429. Penalties for neglect or refusal to answer subpena

Any person who has been subpenaed under the provisions of subsection (d) of section 336 of the Immigration and Nationality Act to appear at the final hearing of [a petition] *an application* for naturalization, and who shall neglect or refuse to so appear and to testify, if in the power of such person to do so, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

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